IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6317 of 2000

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

==========

1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 of any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

==========

GUJARAT AGRICULTURAL UNIVERSIT - Petitioner(s)

Versus

KARAN BAHADUR KUMAR SINGH GURUM - Respondent(s)

==========

Appearance :

MR DG CHAUHAN for Petitioner No(s).: 1.

MR TR MISHRA for Respondent No(s).: 1.

==========

CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 23/06/2005

ORAL JUDGMENT

1. This petition is directed against the order dated 27th July, 1999 passed by the Labour Court, Palanpur, in Reference [LCP] No. 341 of 1996, whereby the Labour Court has directed the petitioner University to pay 50% of back

wages for the period from 1st April, 1992 to 13th December, 1998.

2. The short facts of the case are that the respondent workman was engaged as a Security Guard from 2.9.1987 on a fixed salary and he has worked upto 30.3.1992. It is the case of the petitioner University that since there was no necessity to continue the respondent workman on fixed salary, he was offered to join as a Security Guard on temporary basis. Though an offer was given to the respondent workman to join as Security Guard on temporary basis, the respondent workman denied the same and abandoned the services. It is further the case of the petitioner University that the respondent workman himself has voluntarily left the work and he did not accept the offer as a daily rated chowkidar.

2.1. It is further the case of the petitioner University that instead of reporting for work as a daily rated chowkidar, the respondent workman raised an industrial dispute which was ultimately referred to the Labour Court, Palanpur, for adjudication. The Labour Court after appreciating the materials placed before it, passed the impugned order with the aforesaid directions. Hence, this petition.

3. Mr. Chauhan learned advocate for the petitioner University has submitted that inspite of the offer to resume work as daily rated chowkidar, the respondent workman did not resume. Mr. Chauhan has further submitted that during the pendency of the Reference the respondent

workman, vide order dated 13.12.1998 was reinstated in service. He has further contended that inspite of the fact that the respondent workman had denied the offer and has not resumed the work, the Labour Court ought to have held that the respondent workman is not entitled for any back wages.

4. I have heard the learned advocates for the respective parties. Having perused the relevant materials placed on record, it transpires that during the pendency of the Reference, the respondent workman was reinstated in service and, therefore, the Labour Court has not passed order with regard to reinstatement. Now so far as the direction with regard to grant of 50% back wages is concerned, the Labour Court has in paragraph 9 of the award has only discussed the reasons for granting the back wages and no cogent reason for grant of back wages is given. It has merely stated that now since the workman has been reinstated in service, he is entitled for 50% back wages for the period from 1.4.1992 to 12.12.1998. Thus, the view taken by the Labour Court is illegal and erroneous. Moreover, in view of the principle laid down by the Apex Court that no workmen is entitled to wages if he has not worked, the impugned order of the Labour Court is required to be quashed and set aside.

5. For the foregoing reasons, the petition is allowed. The impugned order dated 27th July, 1999 passed by the Labour Court, Palanpur, in Reference [LCP] No. 341 of 1996, is quashed and set aside. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

/phalguni/